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09/706,326	11/03/2000	Theodore Van Fossen McConnell	PNG-P001/8321	6175

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EXAMINER

CHAWAN, VIJAY B

ART UNIT	PAPER NUMBER
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2654

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/706,326

**Applicant(s)**VAN FOSSEN MCCONNELL,  
THEODORE**Examiner**

Vijay B. Chawan

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 6-7, 11-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Rongley (5,758,322).

As per claim 1, Rongley teaches a method for effecting a computer transaction using speech as a primary input, comprising:

capturing the speech from a speaker using a speech recognition program  
(Fig.10, item 400);

determining a context associated with the captured speech (Col.4, lines 29-59);  
where the context has been determined, building the computer transaction based on the context and at least a portion of the captured speech (Col.4, lines 29-59);

presenting a representation of the computer transaction to a human operator for verification (Col.4, lines 20-28); and,

effecting the computer transaction upon verification by the human operator  
(Col.4, lines 20-28).

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As per claim 2, Rongley teaches the method of claim 1, where the context has not been determined, notifying the speaker that the computer transaction may not have been effected (Col.4, lines 20-28).

As per claim 3, Rongley teaches the method of claim 1, wherein capturing the speech comprises receiving the speech via a telephone network (Col.11, line 65 – Col.12, line 22).

As per claim 6, Rongley teaches the method of claim 1, further comprising verifying an identity of the speaker by comparing the first voice file corresponding to the speaker (Col.4, lines 29-45).

As per claim 7, Rongley teaches the method of claim 6 further comprising notifying the speaker that the computer transaction may not have been effected where the identity of the speaker has not been verified (Col.4, lines 29-45).

As per claim 11, Rongley teaches the method of claim 1, wherein the speech comprises natural speech with flexible syntax (Col.9, lines 28-35, 61-67).

As per claim 12, Rongley teaches the method of claim 1, wherein the speech recognition program is a speaker-independent speech recognition program (Col.2, lines 57-67).

As per claims 13 and 14, Rongley teaches the method of claim 1, further comprising preprocessing the speech to ameliorate effects of impairments impeding voice recognition, wherein the impairments include at least one of low gain, poor signal-to-noise ratio, spurious noise, and ambient noise (Rongley teaches a microphone, Fig.1,

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item 26, it is readily apparent to an artisan in the art that a microphone has a built in filter that filters out the noise).

As per claim 15, Rongley teaches the method of claim 1, wherein determining the context comprises scanning a voice file associated with the captured speech for primary keywords (Col.10, lines 27-39).

As per claim 16, Rongley teaches the method of claim 15, wherein determining the context further comprises scanning the voice file for secondary keywords with reference to the context established with reference to the primary keywords (Col.10, lines 27-39).

As per claim 17, Rongley teaches the method of claim 16, wherein the context corresponds to a limited keyword vocabulary, the secondary keywords being determined with reference to the limited keyword vocabulary (Col.10, lines 27-39).

As per claim 18, Rongley teaches the method of claim 16, wherein determining the context further comprises scanning the voice file for non-keywords (Col.10, lines 27-39).

As per claim 19, Rongley teaches the method of claim 18, wherein the non-keywords are determined using speaker-dependent voice recognition program (Col.10, lines 27-61).

As per claim 20, Rongley teaches the method of claim 1, wherein building the computer transaction comprises populating a predefined template according to the context, and the at least a portion of the captured speech (Col.4, lines 47-59).

As per claim 21, Rongley teaches the method of claim 20, wherein building the computer transaction further comprises populating the predefined template according to at least one of an identity of the speaker and a transaction type (Col.4, lines 47-59).

As per claim 22, Rongley teaches the method of claim 21, wherein the identity of the speaker is determined from at least one of the speech and source information associated with transmission of the speech (Col.4, lines 47-59).

As per claim 23, Rongley teaches the method of claim 21 wherein the transmission type is determined from at least one of the speech and source information associated with transmission of the speech ( Col.3, lines 61-66, Col.4, lines 47-59, Col.5, lines 1-42).

As per claim 24, Rongley teaches the method of claim 20, further comprising selecting the predefined template based on at least one of an identity of the speaker and a transaction type (Col.4, lines 1-59).

As per claim 25, Rongley teaches the method of claim 1, wherein presenting the representation of the computer transaction to the human operator comprises presenting a representation of a voice file associated with the captured speech to the human operator for comparison with the representation of the computer transaction (Col.4, lines 4-67).

As per claim 26, Rongley teaches the method of claim 25, wherein presenting the representation of the voice file to the human operator comprises presenting an audio playback of the captured speech associated with the voice file (Col.4, lines 4-67).

As per claim 27, Rongley teaches the method of claim 25, wherein presenting the representation of the voice file to the human operator comprises presenting a text representation of the captured speech associated with the voice file (Fig.13, Col.4, lines 4-67).

As per claim 28, Rongley teaches the method of claim 1, further comprising revising the computer transaction according to at least one instruction received from the human operator (Col.10, lines 27-61).

As per claim 29, Rongley teaches the method of claim 1, wherein effecting the computer transaction to a target system for processing in response to at least one instruction received from the human operator (Col.10, lines 27-61).

As per claim 30, Rongley teaches the method of claim 1, wherein processing of the computer transaction subsequent to capturing of the speech occurs after a connection with the speaker is terminated (Col.1, lines 1-19).

As per claim 31, Rongley teaches the computer program product comprising a computer readable medium having computer program instructions stored therein for performing the method of claim 1, and is rejected under similar rationale.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rongley (5,758,322) in view of Otto (5,703,943).

Rongley, while teaching the method of claim 3, does not specifically teach capturing the speech further comprises receiving a call with an automatic call distribution system which routes the call to a particular device, wherein at least one of a user identity and the particular service is identified using source information associated with the call as per claims 4 and 5. Otto, however, does teach automatic call distributor, which routes calls to a particular device or an operator (Fig.3, item 3, 4B, 6, Col.1, line 51 – Col.2, line 24). Therefore, it would have been obvious to one with ordinary skill in the art at the time of invention, to use the method of automatic call distributing as taught by Otto, in the method of Rongley, because, one with ordinary skill in the art would recognize, that this would route a call to a particular operator resulting in an interface that is customer friendly.

5. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rongley (5,758,322) in view of Dragosh et al., (6,078,886).

Rongley while teaching the method of claim 1, does not specifically teach capturing the speech that comprises receiving the speech via a wide area network, and wherein the wide area network comprises the World Wide Web. Dragosh et al., do teach capturing the speech that comprises receiving the speech via a wide area



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network, and wherein the wide area network comprises the World Wide Web. (Col.2, lines 54-61). Therefore, it would have been obvious to one with ordinary skill in the art at the time of invention to use the client-server execution of Dragosh et al., in the method of claim 1, because this would provide the user with a transaction system that is versatile and easy accessibility.

As per claim 10, Rongley in view of Dragosh et al., teach the method of claim 1, wherein capturing the speech occurs without interruption by prompting (Dragosh et al., - Col.2, lines 11-27).

Claims 32-35 teach a method similar in scope and content of claims rejected above and, are rejected under similar rationale.

### ***Response to Arguments***

6. Applicant's arguments filed 9/15/05 have been fully considered but they are not persuasive.

7. In response to applicant's argument that Rongley (5,758,322) is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Applicant argues that Rongley does contain an identity of invention ... fails to disclose Applicant's claimed element of presenting a representation of the

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computer transaction to a human operator. Examiner disagrees. Rongley does teach the claimed presenting a representation of the computer transaction to a human operator (see Rongley Col.4, lines 20-28).

8. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

9. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to one with ordinary skill in the art at the time of invention, to use the method of automatic call distributing as taught by Otto, in the method of Rongley, because, one with ordinary skill in the art would recognize, that this would route a call to a particular operator resulting in an interface that is customer friendly. Also, it would have been obvious to one with ordinary skill in the art at the time of invention to use the client-server execution of Dragosh et al., in the method of claim 1 as taught by Rongley,

because this would provide the user with a transaction system that is versatile and easy accessibility.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vijay B. Chawan whose telephone number is (571) 272-7601. The examiner can normally be reached on Monday Through Friday 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil can be reached on (571) 272-7602. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Vijay B. Chawan  
Primary Examiner  
Art Unit 2654

vbc  
11/28/05

**VIJAY CHAWAN  
PRIMARY EXAMINER**